

RECORDATION NO. 10033 Filed 1425

JUN 2 1980 - 9 35 AM

ITEL

INTERSTATE COMMERCE COMMISSION

Rail Division

Two Embarcadero Center
San Francisco, California 94111
(415) 955-9090
Telex 34234

April 23, 1980

Ms. Agatha Mergenovich, Secretary
Interstate Commerce Commission
Washington, DC 20423

No. 0-154A020

Date JUN 2 1980

Fee \$ 20.00

ICC Washington, D. C.

Re: Itel Corporation
Equipment Trust 1978 Series 3
Equipment Trust Agreement dated as of November 1, 1978
10% Equipment Trust Certificates due December 1, 1994

RECEIVED
JUN 2 9 29 AM '80
I.C.C.
FEE OPERATION BR.

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. Section 11303(a) and the Interstate Commerce Commission's rules and regulations thereunder, I enclose herewith, on behalf of Itel Corporation, for filing and recordation, as an additional filing under Recordation No. 10033, four (4) executed counterparts of the following document:

Amendment No. 1, to Lease Agreement made as of October 26, 1978, between Itel Corporation and New Orleans Public Belt Railroad.

The names and addresses of the parties to the aforementioned document are:

- (1) Itel Corporation, Rail Division
Two Embarcadero Center, 24th Floor
San Francisco, California 94111
- (2) The City of New Orleans doing business,
through its Public Belt Railroad Commission,
as New Orleans Public Belt Railroad
International Trade Mart Tower Building
Suite 1247
Two Canal Street
New Orleans, Louisiana 70151

Please cross-index the above-referenced Amendment No. 1 with the following document, which is filed under Recordation No. 9932:

Equipment Trust Agreement, dated as of November 1, 1978, between Citibank, N.A., as Trustee, and Itel Corporation.

10033-1
Agatha Mergenovich
Copy to Agatha Mergenovich

Ms. Agatha Mergenovich, Secretary
Interstate Commerce Commission
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Page two

The equipment covered by the enclosed Amendment No. 1 is one hundred (100) flatcars (A.A.R. mechanical designation FC; 70-ton flush deck flatcars for trailer and container service; 89' in length), formerly, and until remarked, marked PW105201 through and including PW105300, to be remarked to NOPB101200 through and including NOPB101299.

Enclosed also is a check for \$20.00 for the required recordation (\$10.00) and cross-indexing (\$10.00) fees.

Please stamp all counterparts of the enclosed document with your official recording stamp. You will wish to retain one (1) counterpart of the document for your files; it is requested that the remaining three (3) counterparts be delivered to the bearer of this letter.

Sincerely,



David V. Biesemeyer
Senior Counsel

DVB:cp
encls.

cc: Phillip Jackson, Esq.
Edmund Manwell, Esq.
Michael Walsh, Esq.
Steven C. Wight


AMENDMENT NO. 1 JUN 2 1980-9 35 AM

INTERSTATE COMMERCE COMMISSION
AMENDMENT NO. 1 (the "Amendment") dated as of January 30, 1980, between ITEL CORPORATION, a Delaware corporation, acting through its Rail Division ("Itel Rail") successor in interest to Itel Corporation, Rail-Intermodal Division as Lessor, and The City of New Orleans appearing herein through the Public Belt Railroad Commission for the City of New Orleans doing business as NEW ORLEANS PUBLIC BELT RAILROAD ("Lessee"), as Lessee.

W I T N E S S E T H:

WHEREAS, Itel Rail as successor in interest to Itel Corporation, Rail-Intermodal Division and Lessee are parties to a lease dated October 26th, 1978 (the "Lease").

WHEREAS, Itel Rail will be providing to Lessee 100 flatcars being those referred to in Equipment Schedule No. 3 bearing Series Numbers 101200-101299 to be numbered on a consecutive basis (the "Schedule Cars").

NOW, THEREFORE, in consideration of the premises and mutual agreements herein contained, the parties hereto agree to amend the Lease as follows. ~~but only to the extent that the Lease effects those Schedule Cars.~~ 

1. With respect to the Schedule Cars, Section 2A is deleted in its entirety and replaced with the following:

"A. This Agreement shall remain in full force until it shall have been terminated as to all of the Cars as provided herein. The term of lease with respect to all of the Cars described on each Schedule shall commence upon the date when all Cars on such Schedules have been delivered as set forth in Section 3A hereof and shall terminate on January 14, 1992 (Initial Lease Term).

2. With respect to the Schedule Cars, Section 3A is deleted in its entirety and replaced with the following:

"A. Lessee shall confirm in writing to Itel Rail that the specifications of the Cars conform to the specifications of the equipment agreed to by Lessee. Upon such approval by Lessee, and provided this Agreement has not been terminated, Itel Rail shall, at its own expense, remark the Cars with the railroad markings of Lessee. The Cars shall be deemed delivered at 12:00 p.m. on the date of such remarking. Such remarking shall comply with all applicable regulations. The Cars shall be moved to Lessee's railroad line at no cost to Lessee as soon after delivery as is consistent with mutual convenience and economy. Notwithstanding that Lessee may not have immediate physical possession of the Cars leased hereunder, Lessee agrees to pay Itel Rail the rent set forth in this Agreement. To move the Cars to Lessee's railroad line and insure optimal use of the Cars after the Initial Loading, Itel Rail agrees to assist Lessee in monitoring Car movements and, when deemed necessary by Lessee and Itel Rail, to issue movement orders with respect to such Cars to other railroad lines in accordance with ICC and AAR interchange agreements and rules. For the purposes hereof, the term "Initial Loading" shall be defined as the first loading of freight on any railroad line.

3. With respect to the Schedule Cars, Section 4A is deleted in its entirety.

4. With respect to all the Cars, 250 miles per day is changed to 175 miles per day wherever it shall appear, *EFFECTIVE JANUARY 1, 1980.* *AMN*
CNT

5. The first sentence in Section 6A(i) shall be deleted in its entirety and replaced with the following:

"Itel Rail shall receive all payments made to Lessee by other railroad companies for their use or handling of the Cars, including but not limited to mileage charges ("Mileage Payments"), and straight car hire payments and incentive car hire payments (together "Car Hire Payments"), all of which payments made to Lessee are hereafter collectively referred to as "Payments"."

6. With respect to all the Cars, Section 6A(ii) is deleted in its entirety and replaced with the following; *EFFECTIVE JANUARY 1, 1980.* *AMN*
CNT

"(ii)(a) In the event Utilization exceeds 92 percent in any calendar year, Itel Rail shall receive an amount equal to the Itel Rail Base Utilization Rental. For the purposes hereof, Itel Rail Base Utilization Rental shall be defined as the amount equal to the total Car Hire Payments for the calendar year at a Utilization of 92 percent. If Utilization is greater than 92 percent in any calendar year, the Lessee will receive all Car Hire Payments received in excess of 92 percent Utilization.

(ii)(b) Itel Rail shall receive an amount equal to the Itel Rail Base Mileage Rental. For the purposes hereof, Itel Rail Base Mileage Rental shall be an amount equal to the applicable charge per line-haul mile specified in the Code of Car Hire Rules and Interpretations-Freight, multiplied by 175, multiplied by the number of days in the calendar year,* multiplied by the number of such cars subject to the Agreement. If the Mileage Payments exceed the Itel Rail Base Mileage Rental, the Lessee shall receive all Mileage Payments received in excess of the Itel Rail Base Mileage Rental." *AMN*
CNT

7. With respect to all the Cars, Section 6C is deleted in its entirety and replaced with the following:

"C. If at any time during a calendar quarter the number of days that the Cars have not earned either Time Payments or Mileage Payments is such as to make it mathematically certain that Utilization or mileage in such calendar quarter cannot be equal to or greater than 90 percent or 175 miles per day respectively, Itel Rail may, at its option and upon not less than 10 days prior written notice to Lessee, terminate this Agreement as to such Cars as Itel Rail shall determine."

8. ~~Execution of this Amendment is contingent upon the execution of documentation with the financing source and approval from the Interstate Commerce Commission.~~ *AMN*
CNT

~~This section is not deleted.~~ This section is deleted and replaced with Section 8 below.

9. Except as expressly modified by this Amendment, all the terms and provisions of the Lease shall remain in full force and effect.

* multiplied by 92 percent,

8. The effectiveness of this Amendment is contingent upon the approval of this transaction and of documentation by the financing source and approval by the Interstate Commerce Commission if applicable. *AMN*
CNT

10. This Amendment may be executed by the parties hereto in any number of counterparts and all the said counterparts taken together shall be deemed and constitute one and the same instrument.

ITEL CORPORATION
RAIL DIVISION

NEW ORLEANS PUBLIC
BELT RAILROAD

BY: Carl H. Taylor
TITLE: President
DATE: March 25, 1980

BY: Ben Webb Jr
TITLE: General Manager
DATE: January 30, 1980

STATE OF LOUISIANA
PARISH OF ORLEANS

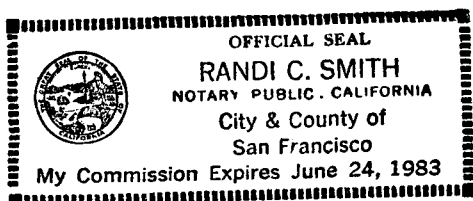
On this 30th day of January, 1980, before me personally appeared P. A. Webb, Jr., to me personally known, who being by me duly sworn says that such person is General Manager of New Orleans Public Belt Railroad, that the foregoing Amendment No. 1 was signed on behalf of said commission by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of such commission.

Corinne Lee Wiener

NOTARY PUBLIC
CORINNE LEE WIENER
NOTARY PUBLIC
ORLEANS PARISH
LOUISIANA
MY COMMISSION IS FOR LIFE

STATE OF CALIFORNIA)
COUNTY OF SAN FRANCISCO)

On this 25th day of March, 1980, before me personally appeared Carl N. Taylor, to me personally known, who being by me duly sworn says that such person is President of ITEL Corporation, Rail Division, that the foregoing Amendment No. 1 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Randi C. Smith
Notary Public